

## BILL ANALYSIS

By: Harris

S.B. 1142  
Enrolled

### BACKGROUND:

High unemployment in Texas has encouraged unscrupulous practices by some career counseling services (service). Some services have enticed unemployed persons to pay fees ranging between \$3,000 and \$10,000 for a group of services that is supposed to help the person make a successful job search.

The Attorney General's office has filed suits against several career counseling services.

### PURPOSE:

As proposed, S.B. 1142 sets standards for career counseling services that will enable the legitimate services to provide unemployed persons valuable services in job hunting, while providing efficient methods to get unscrupulous operators out of the field. Authorizes the Texas Department of Labor and Standards (TDLS) to implement this Act.

### RULEMAKING AUTHORITY:

It is the committee's opinion that rulemaking authority is granted to the Commissioner of the Texas Department of Labor and Standards (commissioner) under Section 3(d) of this bill.

### SECTION BY SECTION ANALYSIS:

SECTION 1. Defines "career counseling," "client," "commissioner," "department," "owner," and "person."

SECTION 2. Provides exceptions to the regulations adopted under this Act.

SECTION 3. (a) Prohibits a person from owning or operating a personnel service without holding a certificate of authority issued by TDLS. Requires a person to file an application with the commissioner and to pay the required fee. Sets forth the information the application must contain.

(b) Provides further requirements for the application.

(c) Requires the owner to file a \$10,000 bond, for each business location, with TDLS before a license is issued.

(d) Requires the commissioner to issue a certificate of authority to an applicant who meets the requirements of this section. Requires the commissioner to process the application not later than the 15th day after such application is filed. Allows the commissioner to adopt rules relating to the administration and enforcement of the program created under this Act.

(e) Provides that a certificate is valid for one year and provides for renewal. Requires the certificate to be prominently displayed in the principal place of business.

SECTION 4. Requires each career counseling service to file an annual financial statement with TDLS.

SECTION 5. (a) Requires each service to adopt a program for consumer complaint resolution. Requires the service to respond within 48 hours of receiving a written complaint and to solve the complaint within 10 days, after which the service must refer the complaint to a TDLS-recognized arbitrator for resolution within 30 days.

(b) Requires each service to post a notice in the main office of the service displaying the telephone number of TDLS with a statement that TDLS may be contacted for consumer complaints.

(c) Requires each career counseling service to provide information to a consumer on request relating to the credentials of the consultants employed by the service.

SECTION 6. Requires the service to be able to prove the truth of any claim made on any advertising or made in any interview. Requires advertising and literature to include the length of time the service has operated and its certificate number.

SECTION 7. (a) Sets forth acts prohibited by the program. (b) Requires a service to provide a copy of the service contract to the consumer at the first interview. Requires a service to interview a prospective client at least twice before entering into a contract.

SECTION 8. Requires a service to provide a completed copy of a proposed written contract to a client before the contract is signed. Sets out requirements for the contract.

SECTION 9. (a) Provides procedures allowing cancellation of a contract by the client within three days of signing. Requires the service to refund all money paid by the client exercising the right to cancel.

(b) Allows a client to cancel a contract if the client decides not to use the service or feels the service is not offering suitable service under the contract. Requires a client to pay for the services received before cancellation.

(c) Requires a service to make a refund not later than 31 days after receiving notice of the cancellation.

SECTION 10. Provides that a violation of this Act is a false, misleading, or deceptive act within the meaning of the Deceptive Trade Practices-Consumer Protection Act, which may be used to enforce this Act.

SECTION 11. (a) Requires the commissioner to enforce this Act and to investigate any career counseling service as necessary. Requires the attorney general to assist the commissioner on request.

(b) Allows a person by sworn affidavit to file a complaint with the commissioner. Requires the commissioner to investigate the complaint on receipt. Authorizes the commissioner to inspect any records relevant to the complaint and to subpoena such records and any necessary witnesses.

(c) Requires the commissioner to hold a hearing after investigation and determination that a violation may have occurred. Requires the commissioner to hold a hearing in the manner provided for a contested case under the Administrative Procedure and Texas Register Act, providing for hearings and due process. Sets forth requirements for the dates of the hearing and the commissioner's decision on the alleged violation.

(d) Provides penalties for services found in violation of this Act.

(e) Allows the commissioner or attorney general to bring an action to prevent violation of this Act. Provides that venue for the action lies in the county where the violation occurred.

SECTION 12. Authorizes the commissioner to award damages equal to the fee charged to the client and double damages to be deposited in the General Revenue Fund.

SECTION 13. Prohibits a service whose certificate has been revoked from applying for a new certificate for three years from the date of revocation.

SECTION 14. Effective date. September 1, 1987.

SECTION 15. Emergency clause.

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